

AMENDED IN ASSEMBLY APRIL 17, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 3070

Introduced by Committee on Health (Chan (Chair), Aghazarian (Vice Chair), Berg, Cohn, Dymally, Frommer, Jones, Lieu, Montanez, Nakanishi, Negrete McLeod, Richman, Ridley-Thomas, and Strickland)

March 15, 2006

An act to amend ~~Section 14166.17~~ *Sections 14166.1, 14166.2, 14166.35, 14166.9, 14166.10, 14166.11, 14166.14, 14166.20, and 14166.21* of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 3070, as amended, Committee on Health. Medi-Cal: demonstration project: ~~nondesignated public hospitals~~. *hospital funding*.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Services and under which qualified low-income persons receive health care benefits. The Medi-Cal program is, in part, governed and funded by federal Medicaid provisions.

~~Existing law provides for certain intergovernmental transfer payments to the state from local entities for local government financial participation in the Medi-Cal program.~~

Existing law establishes the Medi-Cal Hospital/Uninsured Care Demonstration Project Act, which revises hospital reimbursement methodologies under the Medi-Cal program in order to maximize the use of federal funds consistent with federal Medicaid law and stabilize the distribution of funding for hospitals that provide care to Medi-Cal

beneficiaries and uninsured patients. This demonstration project provides for funding, in supplementation of Medi-Cal reimbursement, to various hospitals, including *designated public hospitals*, *nondesignated public hospitals*, and *private hospitals*, as defined in accordance with certain provisions relating to disproportionate share hospitals.

~~Existing law establishes the Nondesignated Public Hospital Supplemental Fund in connection with the supplemental funding of nondesignated public hospitals. Existing law requires that each nondesignated public hospital that was a nondesignated public hospital during the 2002–03 fiscal year, and that satisfies certain other criteria, receive no less from the Nondesignated Public Hospital Supplemental Fund for the demonstration project year than 100% of the amount the hospital received from the prior supplemental funds for the 2002–03 fiscal year.~~

~~This bill would, instead, require that the amount payable in the demonstration project year to a nondesignated public hospital from this fund be no less than 100% of the federal share of the amount the hospital received from the prior supplemental funds for the 2002–03 fiscal year.~~

Existing law provides for the payment of safety net care pool funds to designated public hospitals, or governmental entities with which they are affiliated, pursuant to the demonstration project. Existing law requires that the department claim safety net care pool funds using the optimal combination of hospital certified public expenditures and certified public expenditures of a hospital that operates nonhospital clinics or provides physician, nonphysician practitioner, or other health care services that are identified as hospital services under the demonstration project.

This bill would, in addition, include certified public expenditures of a governmental entity with which a hospital described above is affiliated among the expenditures that the department may use to claim safety net care pool funds. The bill would make other changes regarding the expenditures that the department may use to claim those funds.

Existing law provides for the payment of stabilization funding to certain disproportionate share hospitals under the demonstration project. Existing law specifies the payments required to be made to private hospitals under the demonstration project.

This bill would include among the payments required to be made to private hospitals any stabilization funding payable to project year private DSH hospitals for a project year.

Existing law requires that, with respect to the 2005–06 and 2006–07 project years, the stabilization funding be allocated in a specified manner, including an amount equal to 0.56% of the total stabilization funding amount to nondesignated public hospitals.

This bill would change the amount of stabilization funding to be paid to nondesignated public hospitals to 0.64% of the total stabilization funding amount.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 14166.1 of the Welfare and Institutions*
2 *Code is amended to read:*

3 14166.1. For purposes of this article, the following definitions
4 shall apply:

5 (a) “Allowable costs” means those costs recognized as
6 allowable under Medicare reasonable cost principles and
7 additional costs recognized under the demonstration project,
8 including those expenditures identified in Appendix D to the
9 Special Terms and Conditions for the demonstration project.
10 Allowable costs under this subdivision shall be determined in
11 accordance with the Special Terms and Conditions for the
12 demonstration project and demonstration project implementation
13 documents approved by the federal Centers for Medicare and
14 Medicaid Services.

15 (b) “Base year private DSH hospital” means a nonpublic
16 hospital, nonpublic-converted hospital, or converted hospital, as
17 those terms are defined in paragraphs (26), (27), and (28),
18 respectively, of subdivision (a) of Section 14105.98, that was an
19 eligible hospital under paragraph (3) of subdivision (a) of Section
20 14105.98 for the 2004–05 state fiscal year.

21 (c) “Demonstration project” means the Medi-Cal
22 Hospital/Uninsured Care Demonstration, Number
23 11-W-00193/9, as approved by the federal Centers for Medicare
24 and Medicaid Services.

(d) “Designated public hospital” means any one of the following 22 hospitals identified in Attachment C, “Government-operated Hospitals to be Reimbursed on a Certified Public Expenditure Basis,” to the Special Terms and Conditions for the demonstration project issued by the federal Centers for Medicare and Medicaid Services:

- (1) UC Davis Medical Center.
- (2) UC Irvine Medical Center.
- (3) UC San Diego Medical Center.
- (4) UC San Francisco Medical Center.
- (5) UC Los Angeles Medical Center, including Santa Monica/UCLA Medical Center.
- (6) LA County Harbor/UCLA Medical Center.
- (7) LA County Martin Luther King Jr. Charles R. Drew Medical Center.
- (8) LA County Olive View UCLA Medical Center.
- (9) LA County Rancho Los Amigos National Rehabilitation Center.
- (10) LA County University of Southern California Medical Center.
- (11) Alameda County Medical Center.
- (12) Arrowhead Regional Medical Center.
- (13) Contra Costa Regional Medical Center.
- (14) Kern Medical Center.
- (15) Natividad Medical Center.
- (16) Riverside County Regional Medical Center.
- (17) San Francisco General Hospital.
- (18) San Joaquin General Hospital.
- (19) San Mateo Medical Center.
- (20) Santa Clara Valley Medical Center.
- (21) Tuolumne General Hospital.
- (22) Ventura County Medical Center.

(e) “Federal medical assistance percentage” means the federal medical assistance percentage applicable for federal financial participation purposes for medical services under the Medi-Cal state plan pursuant to Section 1396b(a) of Title 42 of the United States Code.

(f) “Nondesignated public hospital” means a public hospital defined in paragraph (25) of subdivision (a) of Section 14105.98, excluding designated public hospitals.

(g) “Project year” means the applicable state fiscal year of the Medi-Cal Hospital/Uninsured Care Demonstration Project.

(h) “Project year private DSH hospital” means a nonpublic hospital, nonpublic-converted hospital, or converted hospital, as those terms are defined in paragraphs (26), (27), and (28), respectively, of *subdivision (a) of* Section 14105.98, that was an eligible hospital under paragraph (3) of subdivision (a) of Section 14105.98, for the particular project year.

(i) “Prior supplemental funds” means the Emergency Services and Supplemental Payment Fund, the Medi-Cal Medical Education Supplemental Payment Fund, the Large Teaching Emphasis Hospital and Children’s Hospital Medi-Cal Medical Education Supplemental Payment Fund, and the Small and Rural Hospital Supplemental Payments Fund, established under Sections 14085.6, 14085.7, 14085.8, and 14085.9, respectively.

(j) “Private hospital” means a nonpublic hospital, nonpublic converted hospital, or converted hospital, as those terms are defined in paragraphs (26) to (28), inclusive, respectively, of subdivision (a) of Section 14105.98.

(k) “Safety net care pool” means the federal funds available under the Medi-Cal Hospital/Uninsured Care Demonstration Project to ensure continued government support for the provision of health care services to uninsured populations.

(l) “Uninsured” shall have the same meaning as that term has in the Special Terms and Conditions issued by the federal Centers for Medicare and Medicaid Services for the demonstration project.

SEC. 2. Section 14166.2 of the Welfare and Institutions Code is amended to read:

14166.2. (a) The demonstration project shall be implemented and administered pursuant to this article.

(b) The director may modify any process or methodology specified in this article to the extent necessary to comply with federal law or the terms of the demonstration project, but only if the modification results in the equitable distribution of funding, consistent with this article, among the hospitals affected by the modification. If the director, after consulting with affected hospitals, determines that an equitable distribution cannot be achieved, the director shall execute a declaration stating that this determination has been made. The director shall retain the

1 declaration and provide a copy, within five working days of the
2 execution of the declaration, to the fiscal and appropriate policy
3 committees of the Legislature. This article shall become
4 inoperative on the date that the director executes a declaration
5 pursuant to this subdivision, and as of January 1 of the following
6 year shall be repealed.

7 (c) The director shall administer the demonstration project and
8 related Medi-Cal payment programs in a manner that attempts to
9 maximize available payment of federal financial participation,
10 consistent with federal law, the Special Terms and Conditions for
11 the demonstration project issued by the federal Centers for
12 Medicare and Medicaid Services, and this article.

13 (d) As permitted by the federal Centers for Medicare and
14 Medicaid Services, this article shall be effective with regard to
15 services rendered throughout the term of the demonstration
16 project, and retroactively, with regard to services rendered on or
17 after July 1, 2005, but prior to the implementation of the
18 demonstration project.

19 (e) In the administration of this article, the state shall continue
20 to make payments to hospitals that meet the eligibility
21 requirements for participation in the supplemental reimbursement
22 program for hospital facility construction, renovation, or
23 replacement pursuant to Section 14085.5 and shall continue to
24 make inpatient hospital payments not covered by the contract.
25 These payments shall not duplicate any other payments made
26 under this article.

27 (f) The department shall continue to operate the selective
28 provider contracting program in accordance with Article 2.6
29 (commencing with Section 14081) in a manner consistent with
30 this article. A designated public hospital participating in the
31 certified public expenditure process shall maintain a selective
32 provider contracting program contract. These contracts shall
33 continue to be exempt from Chapter 2 (commencing with Section
34 10290) of Part 2 of Division 2 of the Public Contract Code.

35 (g) In the event of a final judicial determination made by any
36 state or federal court that is not appealed in any action by any
37 party or a final determination by the administrator of the Centers
38 for Medicare and Medicaid Services that federal financial
39 participation is not available with respect to any payment made
40 under any of the methodologies implemented pursuant to this

1 article because the methodology is invalid, unlawful, or is
2 contrary to any provision of federal law or regulation, the
3 director may modify the process or methodology to comply with
4 law, but only if the modification results in the equitable
5 distribution of demonstration project funding, consistent with this
6 article, among the hospitals affected by the modification. If the
7 director, after consulting with affected hospitals, determines that
8 an equitable distribution cannot be achieved, the director shall
9 execute a declaration stating that this determination has been
10 made. The director shall retain the declaration and provide a
11 copy, within five working days of the execution of the
12 declaration, to the fiscal and appropriate policy committees of the
13 Legislature. This article shall become inoperative on the date that
14 the director executes a declaration pursuant to this subdivision,
15 and as of January 1 of the following year shall be repealed.

16 (h) (1) The department may adopt regulations to implement
17 this article. These regulations may initially be adopted as
18 emergency regulations in accordance with the rulemaking
19 provisions of the Administrative Procedure Act (Chapter 3.5
20 (commencing with Section 11340) of Part 1 of Division 3 of Title
21 2 of the Government Code). For purposes of this article, the
22 adoption of regulations shall be deemed an emergency and
23 necessary for the immediate preservation of the public peace,
24 health, and safety or general welfare. Any emergency regulations
25 adopted pursuant to this section shall not remain in effect
26 subsequent to 24 months after the effective date of this article.

27 (2) As an alternative, and notwithstanding the rulemaking
28 provisions of Chapter 3.5 (commencing with Section 11340) of
29 Part 1 of Division 3 of Title 2 of the Government Code, or any
30 other provision of law, the department may implement and
31 administer this article by means of provider bulletins, manuals, or
32 other similar instructions, without taking regulatory action. The
33 department shall notify the fiscal and appropriate policy
34 committees of the Legislature of its intent to issue a provider
35 bulletin, manual, or other similar instruction, at least five days
36 prior to issuance. In addition, the department shall provide a copy
37 of any provider bulletin, manual, or other similar instruction
38 issued under this paragraph to the fiscal and appropriate policy
39 committees of the Legislature. The department shall consult with

1 interested parties and appropriate stakeholders, regarding the
2 implementation and ongoing administration of this article.

3 (i) To the extent necessary to implement this article, the
4 department shall submit, by September 30, 2005, to the federal
5 Centers for Medicare and Medicaid Services proposed
6 amendments to the Medi-Cal state plan, including, but not
7 limited to, proposals to modify inpatient hospital payments to
8 designated public hospitals, modify the disproportionate share
9 hospital payment program, and provide for supplemental
10 Medi-Cal reimbursement for certain physician and nonphysician
11 professional services. The department shall, subsequent to
12 September 30, 2005, submit any additional proposed
13 amendments to the Medi-Cal state plan that may be required by
14 the federal Centers for Medicare and Medicaid Services, to the
15 extent necessary to implement this article.

16 (j) Each designated public hospital shall implement a
17 comprehensive process to offer individuals who receive services
18 at the hospital the opportunity to apply for the Medi-Cal
19 program, the Healthy Families Program, or any other public
20 health coverage program for which the individual may be
21 eligible, and shall refer the individual to those programs, as
22 appropriate.

23 (k) In any judicial challenge of the provisions of this article,
24 nothing shall create an obligation on the part of the state to fund
25 any payment from state funds due to the absence or shortfall of
26 federal funding.

27 (l) *Any reference in this article to the "Medicare cost report"*
28 *shall be deemed a reference to the Medi-Cal cost report to the*
29 *extent that report is approved by the federal Centers for*
30 *Medicare and Medicaid Services for any of the uses described in*
31 *this article.*

32 *SEC. 3. Section 14166.35 of the Welfare and Institutions*
33 *Code is amended to read:*

34 14166.35. (a) For each project year, designated public
35 hospitals shall be eligible to receive the following:

36 (1) Payments for Medi-Cal inpatient hospital services and
37 supplemental payments for physician and nonphysician
38 practitioner services, as specified in Section 14166.4.

39 (2) Disproportionate share hospital payment adjustments, as
40 specified in Section 14166.6.

1 (3) Safety net care pool funding, as specified in Section
2 14166.7.

3 (4) Stabilization funding, as specified in Section 14166.75.

4 (5) Grants to distressed hospitals as negotiated by the
5 California Medical Assistance Commission pursuant to Section
6 ~~14199.23~~ 14166.23.

7 (b) Payments under this section shall be in addition to other
8 payments that may be made in accordance with law.

9 *SEC. 4. Section 14166.9 of the Welfare and Institutions Code*
10 *is amended to read:*

11 14166.9. (a) The department, in consultation with the
12 designated public hospitals, shall determine the mix of sources of
13 federal funds for payments to the designated public hospitals in a
14 manner that provides baseline funding to hospitals and
15 maximizes federal Medicaid funding to the state during the term
16 of the demonstration project. Federal funds shall be claimed
17 according to the following priorities:

18 (1) The certified public expenditures of the designated public
19 hospitals for inpatient hospital services and physician and
20 nonphysician practitioner services, as identified in subdivision
21 (e) of Section 14166.4, rendered to Medi-Cal beneficiaries.

22 (2) Federal disproportionate share hospital allotment, subject
23 to the federal-hospital specific limit, in the following order:

24 (A) Those hospital expenditures that are eligible for federal
25 financial participation only from the federal disproportionate
26 share hospital allotment.

27 (B) Payments funded with intergovernmental transfers,
28 consistent with the requirements of the demonstration project, up
29 to the hospital's baseline funding amount or adjusted baseline
30 funding amount, as appropriate, for the project year.

31 (C) Any other certified public expenditures for hospital
32 services that are eligible for federal financial participation from
33 the federal disproportionate share hospital allotment.

34 (3) Safety net care pool funds, using the optimal combination
35 of hospital certified public expenditures and certified public
36 expenditures of a hospital, *or governmental entity with which the*
37 *hospital is affiliated*, that operates nonhospital clinics or provides
38 physician, nonphysician practitioner, or other health care services
39 that are *not* identified as hospital services under the Special
40 Terms and Conditions for the demonstration project.

1 (4) Health care expenditures of the state that represent
2 alternate state funding mechanisms approved by the federal
3 Centers for Medicare and Medicaid Services under the
4 demonstration project as set forth in Section 14166.22.

5 (b) The department shall implement these priorities, to the
6 extent possible, in a manner that minimizes the redistribution of
7 federal funds that are based on the certified public expenditures
8 of the designated public hospitals.

9 (c) The department may adjust the claiming priorities to the
10 extent that these adjustments result in additional federal
11 Medicaid funding during the term of the demonstration project or
12 facilitate the objectives of subdivision (b).

13 (d) There is hereby established in the State Treasury the
14 “Demonstration Disproportionate Share Hospital Fund,”
15 consisting of all federal funds received by the department with
16 respect to the certified public expenditures claimed pursuant to
17 subparagraphs (A) and (C) of paragraph (2) of subdivision (a).
18 Notwithstanding Section 13340 of the Government Code, the
19 fund shall be continuously appropriated to the department solely
20 for the purposes specified in Section 14166.6.

21 (e) All federal safety net care pool funds claimed and received
22 by the department based on health care expenditures incurred by
23 the designated public hospitals, or the governmental entities with
24 which they are affiliated, shall be deposited in the Health Care
25 Support Fund, established pursuant to Section 14166.21.

26 *SEC. 5. Section 14166.10 of the Welfare and Institutions*
27 *Code is amended to read:*

28 14166.10. (a) Payments to private hospitals under the
29 demonstration project shall include, as applicable, all of the
30 following:

31 (1) Payments under selective provider contracts with the
32 department negotiated by the California Medical Assistance
33 Commission in accordance with Article 2.6 (commencing with
34 Section 14081).

35 (2) Disproportionate share *hospital* replacement payments
36 under Section 14166.11.

37 (3) Supplemental payments under Section 14166.12.

38 (4) Payments to distressed hospitals as negotiated by the
39 California Medical Assistance Commission pursuant to Section
40 14166.23.

1 (5) *Payments of amounts described in Section 14166.14.*

2 (b) Payments under subdivision (a) shall be in addition to
3 other payments that may be made in accordance with law.

4 *SEC. 6. Section 14166.11 of the Welfare and Institutions*
5 *Code is amended to read:*

6 14166.11. (a) The department shall pay to each project year
7 private DSH hospital the amounts that would have been paid
8 under the disproportionate share hospital program using the
9 formulas and methodology in effect for the 2004-05 fiscal year as
10 more specifically set forth in this section.

11 (b) For each project year, the department shall develop and
12 issue a tentative and final disproportionate share list in
13 accordance with Section 14105.98.

14 (c) For each project year, the department shall perform the
15 computations set forth in paragraphs (1) to (4), inclusive, and (6)
16 to (8), inclusive, of subdivision (am) and paragraphs (1) to (3),
17 inclusive, of subdivision (an) of Section 14105.98, subject to the
18 following:

19 (1) For purposes of these computations, the maximum state
20 disproportionate share hospital allotment for California for each
21 project year shall be the allotment effective during the federal
22 fiscal year beginning during the project year.

23 (2) All references to October 1 shall be deemed to be
24 references to July 1.

25 (3) Notwithstanding any other provision of law, the transfer
26 amounts for the Medi-Cal Inpatient Payment Adjustment Fund to
27 the Health Care Deposit Fund, as provided for pursuant to
28 paragraph (2) of subdivision (d) of Section 14163 shall be
29 deemed to be eighty-five million dollars (\$85,000,000) for
30 purposes of the computations under this subdivision.

31 (4) Notwithstanding any other provision of law, the payments
32 made under this section shall be treated as payment adjustments
33 made under Section 14105.98 for purposes of computing the
34 OBRA 1993 payment limitation, as defined in paragraph (24) of
35 subdivision (a) of Section 14105.98, the low-income utilization
36 rate, and all related computations.

37 (5) Subdivision (m) of Section 14105.98 shall apply to
38 payments made under this section.

39 (d) Interim payments shall be made for the first five months of
40 each project year as follows:

(1) Interim payments shall be made to each private hospital identified on a tentative disproportionate share list for the project year that was also on the final disproportionate share list for the prior fiscal year. The interim payment amount per month for each of these hospitals shall equal one-twelfth of the total payments, excluding stabilization funds, made to the hospital for the prior fiscal year under this section or under Section 14105.98. The interim payment amount may be adjusted to reflect any changes in the total payment amounts, excluding stabilization funds, projected to be made under this section for the project year.

(2) The computation of interim payments described in this subdivision shall be made promptly after the department issues the tentative disproportionate share hospital list for the project year.

(3) The first interim payment for a project year shall be made to each hospital no later than 60 days after the issuance of the tentative disproportionate share hospital list for that project year and shall include the interim payment amounts for all prior months in the project year. Subsequent interim payments for a project year shall be made on the last checkwrite of each month made by the Controller until interim payments for the first five months of the project year have been made.

(4) The department may recover any interim payments for a project year made under this subdivision to a hospital that is not on the final disproportionate share hospital list for that project year. These interim payments shall be considered an overpayment. The department shall issue a demand for repayment to a hospital at least 30 days prior to taking action to recover the overpayment. After the 30-day period, the department may recover the overpayment using any of the methods set forth in Section 14115.5 or subdivision (c) of Section 14172.5. Any offset shall be subject to Section 14115.5 or subdivision (d) of Section 14172.5. No other provision of Section 14172.5 shall be applicable with respect to the recovery of overpayments under this subdivision. A hospital may appeal the department's determination of an overpayment under this subdivision pursuant to the appeal procedures set forth in Sections 51016 to 51047, inclusive, of Title 22 of the California Code of Regulations, and seek judicial review of the final administrative decision pursuant to Section 14171, provided that

1 the only issues that may be raised in this appeal are whether the
2 hospital, but for inadvertent error by the department, was on the
3 final disproportionate share list for the project year and whether
4 the department's computation of the overpayment amount is
5 correct. If the hospital is reinstated on the final disproportionate
6 share list pursuant to Section 14105.98, the department shall
7 promptly refund any amount recovered under this paragraph.

8 (e) Tentative adjusted monthly payments shall be made for the
9 months of December through March of each project year to each
10 private hospital identified on the final disproportionate share
11 hospital list for the project year, computed and paid as follows:

12 (1) An adjusted payment amount shall be computed for each
13 hospital equal to the sum of the total payment adjustment amount
14 for the hospital computed pursuant to subdivision (am) of Section
15 14105.98, plus the supplemental lump-sum payment adjustment
16 amount computed pursuant to subdivision (an) of Section
17 14105.98, each as most recently computed by the department,
18 plus any applicable interim estimated stabilization funding
19 pursuant to subdivision (b) of Section 14166.14.

20 (2) A tentative adjusted monthly payment amount shall be
21 computed for each hospital equal to the adjusted payment amount
22 for the hospital, minus the aggregate interim payments made to
23 the hospital for the project year, divided by seven.

24 (3) The computation of tentative adjusted monthly payments
25 described in this subdivision shall be made promptly after the
26 department issues the final disproportionate share hospital list for
27 the project year.

28 (4) The first tentative adjusted monthly payment for a project
29 year shall be made to each hospital by January 15 or within 60
30 days after the issuance of the final disproportionate share hospital
31 list for the project year, whichever is later, and shall include the
32 tentative adjusted monthly payment amounts for all prior months
33 in the project year for which those payments are due. Subsequent
34 tentative adjusted monthly payments for a project year shall be
35 made on the last checkwrite of each month made by the
36 Controller until tentative adjusted monthly payments for
37 December through March of the project year have been made.

38 (f) Three data corrected payments shall be made on the last
39 checkwrite of the month made by the Controller for the months
40 of April through June of each project year to each private

1 hospital identified on the final disproportionate share hospital list
2 for the project year, computed and paid as follows:

3 (1) An annual data corrected payment amount shall be
4 computed for each hospital equal to the sum of the total payment
5 adjustment amount for the hospital computed pursuant to
6 subdivision (am) of Section 14105.98, plus the supplemental
7 lump-sum payment adjustment amount computed pursuant to
8 subdivision (an) of Section 14105.98, each as most recently
9 computed by the department, plus any interim estimated
10 stabilization funding. The annual data corrected payment
11 amounts shall reflect data corrections, hospital closures, and
12 other revisions made by the department to the adjusted payment
13 amounts computed under paragraph (1) of subdivision (e).

14 (2) A monthly data corrected payment amount shall be
15 computed for each hospital equal to the annual data corrected
16 payment amount for the hospital, minus both the aggregate
17 interim payments made to the hospital for the project year and
18 the aggregate tentative adjusted monthly payments made to the
19 hospital, divided by three.

20 (g) Payment under subdivisions (d), (e), and (f) for a month
21 shall be made only to private hospitals open for patient care
22 through the 15th day of the month.

23 (h) The department shall compute a final adjusted payment
24 amount for each private hospital on the final disproportionate
25 share list for a project year after the completion of the project
26 year and the determination of the amount of stabilization funding
27 available to be paid under this section as follows:

28 (1) An amount shall be computed for each hospital equal to
29 the sum of the total payment adjustment amount for the hospital
30 computed pursuant to subdivision (am) of Section 14105.98, plus
31 the supplemental lump-sum payment adjustment amount
32 computed pursuant to subdivision (an) of Section 14105.98, each
33 as most recently computed by the department. These amounts
34 shall reflect data corrections, hospital closures, and other
35 revisions made by the department to the annual data corrected
36 payment amounts computed under paragraph (1) of subdivision
37 (f) in a manner that ensures that any payments not payable or
38 recouped are redistributed among hospitals eligible for a final
39 adjusted payment amount in accordance with the calculations
40 made pursuant to Section 14105.98.

1 (2) The department shall add to the amount computed for each
2 hospital under paragraph (1) a pro rata share of any stabilization
3 funding to be allocated and paid under this section, allocated
4 based on the amounts computed under paragraph (1).

5 (3) The department shall for each hospital for each project
6 year reconcile the total amount paid to the hospital for that
7 project year under subdivisions (d), (e), and (f) with the amount
8 determined under paragraph (2). The department shall issue a
9 report to each hospital setting forth the result of the reconciliation
10 that shall include the department's computation, data, and
11 identification of data sources. The department shall pay to the
12 hospital any underpayment determined as a result of this
13 reconciliation and collect from the hospital any overpayment
14 determined as a result of this reconciliation pursuant to paragraph
15 (4) of subdivision (d) of Section 14166.11.

16 (4) A hospital may seek to correct the department's data and
17 computations under this section in accordance with the processes
18 undertaken by the department to implement Section 14105.98 in
19 effect during the 2004-05 state fiscal year.

20 (i) In accordance with the demonstration project, the following
21 shall apply:

22 (1) Payments under this section shall satisfy the state's
23 obligation to have a payment adjustment program for
24 disproportionate share hospitals under Section 1923 of the Social
25 Security Act (42 U.S.C. Sec. 1396r-4).

26 (2) Payments under this section and federal financial
27 participation shall not be counted against the state's allotment of
28 federal funding for Medicaid disproportionate share payment
29 adjustments.

30 (j) (1) For purposes of this subdivision, "federal
31 disproportionate share allotment" means the federal Medicaid
32 disproportionate share hospital allotment specified for California
33 under Section 1396r-4(f) of Title 42 of the United States Code.

34 (2) In the event any hospital, or any party on behalf of a
35 hospital, shall initiate a case or proceeding in any state or federal
36 court in which the hospital seeks any relief of any sort
37 whatsoever, including, but not limited to, monetary relief,
38 injunctive relief, declaratory relief, or a writ, based in whole or in
39 part on a contention that the hospital is entitled to, or should
40 receive any portion of, the federal disproportionate share hospital

1 allotment for any or all of federal fiscal years 2006 to 2010,
2 inclusive, all of the following shall apply:

3 (A) No payments shall be made to the hospital pursuant to this
4 section until the case or proceeding is finally resolved, including
5 the final disposition of all appeals.

6 (B) Any amount computed to be payable to the hospital
7 pursuant to this section for a project year shall be withheld by the
8 department and shall be paid to the hospital only after the case or
9 proceeding is finally resolved, including the final disposition of
10 all appeals, and only if the case or proceeding does not result in
11 any amount being paid or payable to the hospital from the federal
12 disproportionate share hospital allotment for any portion of the
13 project year.

14 (C) The hospital shall become ineligible to receive any amount
15 pursuant to this section for any project year for which it is
16 determined that the hospital is entitled to be paid any portion of
17 the federal disproportionate share hospital allotment.

18 (D) Any amount that would have been payable to the hospital
19 pursuant to this section, but is not paid to the hospital because the
20 hospital has become ineligible to receive payments pursuant to
21 this section shall be returned to the state General Fund.

22 (E) In the event any portion of the federal disproportionate
23 share hospital allotment is applied to payments to any private
24 hospital, the department shall make any additional payments that
25 may be necessary from state funds so that the amount of the
26 disproportionate share hospital payments that are made to
27 designated public hospitals or nondesignated public hospitals is
28 not less than the amount that would have been made if the
29 allotment had not been applied to payments to any private
30 hospital.

31 (F) A hospital's total project year payment amount determined
32 under this section may be subject to reduction by offset pursuant
33 to Section 14115.5 or 14172.5.

34 *SEC. 7. Section 14166.14 of the Welfare and Institutions*
35 *Code is amended to read:*

36 14166.14. The amount of any stabilization funding payable to
37 the project year private DSH hospitals under Section 14166.20
38 for a project year, which amount shall not include the amount of
39 stabilization funding paid or payable to hospitals prior to the
40 computation of the stabilization funding under Section 14166.20,

1 plus any amount payable to project year private DSH hospitals
2 under paragraph (1) of subdivision (b) of Section 14166.21, shall
3 be allocated as follows:

4 (a) (1) To fund any shortfall due under Section 14166.11.

5 (2) An amount shall be transferred to the Private Hospital
6 Supplemental Fund established pursuant to Section ~~14166.20~~
7 *14166.12*, as may be necessary so that the amount for the Private
8 Hospital Supplemental Fund for the project year, including all
9 funds previously transferred to, or deposited in, the Private
10 Hospital Supplemental Fund for the project year, is not less than
11 the Private Hospital Supplemental Fund base amount determined
12 pursuant to subdivision (j) of Section 14166.12.

13 (3) The amounts paid or transferred under paragraphs (1) and
14 (2) shall be reduced pro rata if there is not sufficient funding
15 described under paragraphs (1) and (2).

16 (b) Of the stabilization funding remaining, after allocations
17 pursuant to subdivision (a), that are payable to project year
18 private DSH hospitals, 66.4 percent shall be allocated and
19 distributed among those hospitals pro rata based on the amounts
20 determined in accordance with Section 14166.11, and 33.6
21 percent shall be transferred to the Private Hospital Supplemental
22 Fund.

23 *SEC. 8. Section 14166.20 of the Welfare and Institutions*
24 *Code is amended to read:*

25 14166.20. (a) With respect to each project year, the total
26 amount of stabilization funding shall be the sum of the following:

27 (1) Federal Medicaid funds available in the Health Care
28 Support Fund, established pursuant to Section 14166.21, reduced
29 by the amount necessary to meet the baseline funding amount, or
30 the adjusted baseline funding amount, as appropriate, for project
31 years after the 2005–06 project year for each designated public
32 hospital, project year private DSH hospitals in the aggregate, and
33 nondesignated public hospitals in the aggregate as determined in
34 Sections 14166.5, 14166.13, and 14166.18, respectively, taking
35 into account all other payments to each hospital under this article.
36 This amount shall be not less than zero.

37 (2) The state general funds that were made available due to the
38 receipt of federal funding for previously state-funded programs
39 through the safety net care pool and any federal Medicaid

1 hospital reimbursements resulting from these expenditures,
2 unless otherwise recognized under paragraph (1).

3 (3) To the extent not included in paragraph (1) or (2), the
4 amount of the increase in state General Fund expenditures for
5 Medi-Cal inpatient hospital services for the project year for
6 project year private DSH hospitals and nondesignated public
7 hospitals, including amounts expended in accordance with
8 paragraph (1) of subdivision (c) of Section 14166.23 that exceeds
9 the expenditure amount for the same purpose and the same
10 hospitals in the 2004–05 state fiscal year, and any direct grants to
11 designated public hospitals for services under the demonstration
12 project.

13 (4) To the extent not included in paragraph (2), federal
14 Medicaid funds received by the state as a result of the General
15 Fund expenditures described in paragraph (3).

16 (5) The federal Medicaid funds received by the state as a result
17 of federal financial participation with respect to Medi-Cal
18 payments for inpatient hospital services made to project year
19 private DSH hospitals for services rendered during the project
20 year, the state share of which was derived from
21 intergovernmental transfers or certified public expenditures of
22 any public entity that does not own or operate a public hospital.

23 (b) With respect to the 2005–06 and 2006–07 project years,
24 the stabilization funding determined under subdivision (a) shall
25 be allocated as follows:

26 (1) Eight million dollars (\$8,000,000) shall be paid to San
27 Mateo Medical Center.

28 (2) (A) Ninety-six million five hundred thousand dollars
29 (\$96,500,000) shall be allocated to designated public hospitals to
30 be paid in accordance with Section 14166.75.

31 (B) Forty-two million five hundred thousand dollars
32 (\$42,500,000) shall be allocated to private DSH hospitals to be
33 paid in accordance with Section 14166.14.

34 (C) In the event that stabilization funding is less than one
35 hundred forty-seven million dollars (\$147,000,000), the amounts
36 allocated to designated public hospitals and private DSH
37 hospitals under this paragraph shall be reduced proportionately.

38 (3) An amount equal to the lesser of 10 percent of the total
39 amount determined under subdivision (a) ~~of Section 14166.20~~ or
40 twenty-three million five hundred thousand dollars (\$23,500,000)

1 shall be made available for additional payments to distressed
2 hospitals that participate in the selective provider contracting
3 program under Article 2.6 (commencing with Section 14081),
4 including designated public hospitals, in amounts to be
5 determined by the California Medical Assistance Commission.
6 The additional payments to designated public hospitals shall be
7 negotiated by the California Medical Assistance Commission,
8 but shall be paid by the department in the form of a direct grant
9 rather than as Medi-Cal payments.

10 (4) An amount equal to ~~0.56~~ 0.64 percent of the total amount
11 determined under subdivision (a), to nondesignated public
12 hospitals to be paid in accordance with Section 14166.19.

13 (5) The amount remaining after subtracting the amount
14 determined in paragraphs (1) to (4), inclusive, shall be allocated
15 as follows:

16 (A) Sixty percent to designated public hospitals to be paid in
17 accordance with Section 14166.75.

18 (B) Forty percent to project year private DSH hospitals to be
19 paid in accordance with Section 14166.14.

20 (c) By April 1 of the year following the project year for which
21 the payment is made, and after taking into account final amounts
22 otherwise paid or payable to hospitals under this article, the
23 director shall calculate in accordance with subdivision (a),
24 allocate in accordance with subdivision (b), and pay to hospitals
25 in accordance with Sections 14166.75, 14166.14, and 14166.19,
26 as applicable, the stabilization funding.

27 (d) For purposes of determining amounts paid or payable to
28 hospitals under subdivision (c), the department shall apply the
29 following:

30 (1) In determining amounts paid or payable to designated
31 public hospitals that are based on allowable costs incurred by the
32 hospital, or the governmental entity with which it is affiliated, the
33 following shall apply:

34 (A) If the final payment amount is based on the hospital's
35 Medicare cost report, the department shall rely on the cost report
36 filed with the Medicare fiscal intermediary for the project year
37 for which the calculation is made, reduced by a percentage that
38 represents the average percentage change from total reported
39 costs to final costs for the three most recent cost reporting
40 periods for which final determinations have been made, taking

1 into account all administrative and judicial appeals. Protested
2 amounts shall not be considered in determining the average
3 percentage change unless the same or similar costs are included
4 in the project year cost report.

5 (B) If the final payment amount is based on costs not included
6 in subparagraph (A), the reported costs as of the date the
7 determination is made under subdivision (c), shall be reduced by
8 10 percent.

9 (C) In addition to adjustments required in subparagraphs (A)
10 and (B), the department shall adjust amounts paid or payable to
11 designated public hospitals by any applicable deferrals or
12 disallowances identified by the federal Centers for Medicare and
13 Medicaid Services as of the date the determination is made under
14 subdivision (c) not otherwise reflected in subparagraphs (A) and
15 (B).

16 (2) Amounts paid or payable to project year private DSH
17 hospitals and nondesignated public hospitals shall be determined
18 by the most recently available Medi-Cal paid claims data
19 increased by a percentage to reflect an estimate of amounts
20 remaining unpaid.

21 (e) The department shall consult with hospital representatives
22 regarding the appropriate calculation of stabilization funding
23 before stabilization funds are paid to hospitals. No later than 30
24 days after this consultation, the department shall establish a final
25 determination of stabilization funding that shall not be modified
26 for any reason other than mathematical errors or mathematical
27 omissions on the part of the department.

28 (f) The department shall distribute 75 percent of the estimated
29 stabilization funding on an interim basis throughout the project
30 year.

31 *SEC. 9. Section 14166.21 of the Welfare and Institutions*
32 *Code is amended to read:*

33 14166.21. (a) The Health Care Support Fund is hereby
34 established in the State Treasury. Notwithstanding Section 13340
35 of the Government Code, the fund shall be continuously
36 appropriated to the department for the purposes specified in this
37 article. *The fund shall include any interest that accrues on*
38 *amounts in the fund.*

39 (b) Amounts in the Health Care Support Fund shall be paid in
40 the following order of priority:

(1) To hospitals for services rendered to Medi-Cal beneficiaries and the uninsured in an amount necessary to meet the aggregate baseline funding amount, or the adjusted aggregate baseline funding amount for project years after the 2005-06 project year, as specified in subdivision (d) of Section 14166.5, subdivision (b) of Section 14166.13, and Section 14166.18, taking into account all other payments to each hospital under this article. If the amount in the Health Care Support Fund is inadequate to provide full aggregate baseline funding, or adjusted aggregate baseline funding, to all designated public hospitals, project year private DSH hospitals, and nondesignated public hospitals, each group's payments shall be reduced pro rata.

(2) To the extent necessary to maximize federal funding under the demonstration project and consistent with Section 14166.22, the department may obtain safety net care pool funds based on health care expenditures incurred by the department for uncompensated medical care costs of medical services provided to uninsured individuals, as approved by the federal Centers for Medicare and Medicaid Services.

(3) Stabilization funding, allocated and paid in accordance with Sections 14166.75, 14166.14, and 14166.19.

(4) Any amounts remaining after final reconciliation of all amounts due at the end of a project year shall remain available for payments in accordance with this section in the next project year.

~~(5) The fund shall include any interest that accrues on amounts in the fund.~~

~~SECTION 1. Section 14166.17 of the Welfare and Institutions Code is amended to read:~~

~~14166.17. (a) The California Medical Assistance Commission shall negotiate payment amounts in accordance with the selective provider contracting program established pursuant to Article 2.6 (commencing with Section 14081) from the Nondesignated Public Hospital Supplemental Fund established pursuant to subdivision (b) for distribution to nondesignated public hospitals that satisfy the criteria of Section 14085.6, 14085.7, 14085.8, or 14085.9.~~

~~(b) The Nondesignated Public Hospital Supplemental Fund is hereby established in the State Treasury. For purposes of this~~

1 section, “fund” means the ~~Nondesignated Public Hospital~~
2 ~~Supplemental Fund.~~

3 ~~(e) Notwithstanding Section 13340 of the Government Code,~~
4 ~~the fund shall be continuously appropriated to the department for~~
5 ~~the purposes specified in this section.~~

6 ~~(d) Except as otherwise limited by this section, the fund shall~~
7 ~~consist of all of the following:~~

8 ~~(1) One million nine hundred thousand dollars (\$1,900,000),~~
9 ~~which shall be transferred annually from General Fund amounts~~
10 ~~appropriated in the annual Budget Act for the fund.~~

11 ~~(2) Any additional moneys appropriated to the fund.~~

12 ~~(3) All stabilization funding transferred to the fund.~~

13 ~~(4) All private moneys donated by private individuals or~~
14 ~~entities to the department for deposit in the fund as permitted~~
15 ~~under applicable federal Medicaid laws.~~

16 ~~(5) Any interest that accrues on amounts in the fund.~~

17 ~~(e) The department may accept or not accept moneys offered~~
18 ~~to the department for deposit in the fund. If the department~~
19 ~~accepts moneys pursuant to this section, the department shall~~
20 ~~obtain federal financial participation to the full extent permitted~~
21 ~~by law. With respect to funds transferred or donated from private~~
22 ~~individuals or entities, the department shall accept only those~~
23 ~~funds that are certified by the transferring or donating entity as~~
24 ~~qualifying for federal financial participation under the terms of~~
25 ~~the Medicaid Voluntary Contribution and Provider-Specific Tax~~
26 ~~Amendments of 1991 (P.L. 102-234) or Section 433.51 of Title~~
27 ~~42 of the Code of Federal Regulations, as applicable. The~~
28 ~~department may return any funds transferred or donated in error.~~

29 ~~(f) Moneys in the funds shall be used as the source for the~~
30 ~~nonfederal share of payments to hospitals under this section.~~

31 ~~(g) Any funds remaining in the fund at the end of a fiscal year~~
32 ~~shall be carried forward for use in the following fiscal year.~~

33 ~~(h) Moneys shall be allocated from the fund by the department~~
34 ~~and shall be applied to obtain federal financial participation in~~
35 ~~accordance with customary Medi-Cal accounting procedures for~~
36 ~~purposes of payments under this section. Distributions from the~~
37 ~~fund shall be supplemental to any other Medi-Cal reimbursement~~
38 ~~received by the hospitals, including amounts that hospitals~~
39 ~~receive under the selective provider contracts negotiated under~~
40 ~~Article 2.6 (commencing with Section 14081), and shall not~~

1 affect provider rates paid under the selective provider contracting
2 program.

3 (i) ~~Each nondesignated public hospital that was a~~
4 ~~nondesignated public hospital during the 2002-03 fiscal year,~~
5 ~~received payments for the 2002-03 fiscal year from any of the~~
6 ~~prior supplemental funds, and, during the project year, satisfies~~
7 ~~the criteria in Section 14085.6, 14085.7, 14085.8, or 14085.9 to~~
8 ~~be eligible to negotiate for distributions under any of those~~
9 ~~sections shall receive no less from the Nondesignated Public~~
10 ~~Hospital Supplemental Fund for the project year than 100 percent~~
11 ~~of the federal share of the amount the hospital received from the~~
12 ~~prior supplemental funds for the 2002-03 fiscal year. Each~~
13 ~~hospital described in this subdivision shall be eligible for~~
14 ~~additional payments from the fund pursuant to subdivision (j).~~

15 (j) ~~All amounts that are in the fund for a project year in excess~~
16 ~~of the amount necessary to make the payments under subdivision~~
17 ~~(i) shall be available for negotiation by the California Medical~~
18 ~~Assistance Commission, along with corresponding federal~~
19 ~~financial participation, for supplemental payments to~~
20 ~~nondesignated public hospitals that for the project year satisfy the~~
21 ~~criteria under Section 14085.6, 14085.7, 14085.8, or 14085.9 to~~
22 ~~be eligible to negotiate for distributions under any of those~~
23 ~~sections, and paid for services rendered during the project year~~
24 ~~pursuant to the selective provider contracting program under~~
25 ~~Article 2.6 (commencing with Section 14081).~~

26 (k) ~~The amount of any stabilization funding transferred to the~~
27 ~~fund with respect to a project year may in the discretion of the~~
28 ~~California Medical Assistance Commission to be paid for~~
29 ~~services furnished in the same project year regardless of when~~
30 ~~the stabilization funds become available, provided the payment is~~
31 ~~consistent with other applicable federal or state legal~~
32 ~~requirements and does not result in a hospital exceeding any~~
33 ~~applicable reimbursement limitations.~~

34 (l) ~~The department shall pay amounts due to a nondesignated~~
35 ~~hospital from the fund for a project year, with the exception of~~
36 ~~stabilization funding, in up to four installment payments, unless~~
37 ~~otherwise provided in the hospital's contract negotiated with the~~
38 ~~California Medical Assistance Commission, except that hospitals~~
39 ~~that are not described in subdivision (i) shall not receive the first~~
40 ~~installment payment. The first payment shall be made as soon as~~

1 practicable after the issuance of the tentative disproportionate
2 share hospital list for the project year, and in no event later than
3 January 1 of the project year. The second and subsequent
4 payments shall be made after the issuance of the final
5 disproportionate hospital list for the project year, and shall be
6 made only to hospitals that are on the final disproportionate share
7 hospital list for the project year. The second payment shall be
8 made by February 1 of the project year or as soon as practicable
9 after the issuance of the final disproportionate share hospital list
10 for the project year. The third payment, if scheduled, shall be
11 made by April 1 of the project year. The fourth payment, if
12 scheduled, shall be made by June 30 of the project year. This
13 subdivision does not apply to hospitals that are scheduled to
14 receive payments from the fund because they meet the criteria
15 under Section 14085.7 but do not meet the criteria under Section
16 14085.6, 14085.8, or 14085.9.

17 (m) The department shall pay stabilization funding transferred
18 to the fund in amounts negotiated by the California Medical
19 Assistance Commission and paid in accordance with the
20 applicable contract or contract amendment.